

E
cont'd

203. A pharmaceutical composition adapted for oral administration comprising per unit dose 50 mg, calculated on a free base basis, of paroxetine methanesulfonate having the following characteristic IR peaks: 1603, 1194, 1045, 946, 830, 601, 554, and 539 cm^{-1} , and a pharmaceutically acceptable carrier.

REMARKS

Claims 114 to 154 are pending in the application. Claims 115, 126-134, 136 and 147 to 154 are allowed. Claims 114 and 135 are rejected under the judicially created doctrine of obviousness-type double patenting. Claims 116 to 125 and 137 to 146 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicants respectfully request withdrawal of the outstanding rejections for the reasons set forth herein.

Entry of applicants' proposed amendments after final rejection is respectfully requested because said amendments are believed to eliminate the grounds for rejection under the judicially created doctrine of obviousness-type double patenting thereby placing the application in a condition for allowance (MPEP 714.12).

I. The Rejection Under the Judicially Created Doctrine of Obviousness-Type Double Patenting.

Claims 114 and 135 are rejected over claims 1 or 3 of U.S. Patent No. 6,063,927. Although the conflicting claims are not identical, they are not considered patentably distinct from each other because overlapping subject matter is claimed. Office Action dated June 1, 2001.

In response to the double patenting rejection, claims 114 and 135 have been deleted and replaced by newly added claims 155, 156, 180 and 181. The remaining claims have been amended to depend on the newly added claims. Whereas claims 1 and 3 of U.S. Patent No. 6,063,927 recite IR data alone, newly added claims 155, 156, 180 and 181 all recite XRD (X-ray diffraction) peaks alone or in combination with IR data. Accordingly, the claims are different in their recitations, and the Examiner is respectfully requested to reconsider and withdraw the subject rejection.

Serial No.: 09/469,902
Group Art Unit No.: 1625

- 8 -

Applicants submit that the rejection has been addressed and that the claims, as amended, are allowable. Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned attorney at the number indicated below.

Respectfully submitted,



Wayne J. Dustman

Attorney for Applicants

Registration No. 33,870

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5023
Facsimile (610) 270-5090

n:\wjd\ptoltrs\32151C1AF.doc

Serial No.: 09/469,902
Group Art Unit No.: 1625

- 9 -

VERSION WITH MARKINGS TO SHOW CHANGES MADE

This amendment deletes all of the previous claims and adds a new set of claims. As such, a marked up version of previous claims is not required.